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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CUI YING LIN, )  
Plaintiff, ) No. C 07-3439 JSW  
v. )  
MICHAEL CHERTOFF, Secretary of the )  
Department of Homeland Security; )  
EMILIO GONZALEZ, Director of U.S. )  
Citizenship and Immigration Services; )  
ROSEMARY MELVILLE, District Director )  
of the San Francisco U.S. Citizenship and )  
Immigration Services; )  
ROBERT S. MUELLER, III, Director of the )  
Federal Bureau of Investigations, )  
Defendants. )

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Defendants hereby submit their answer to Plaintiff's Petition for Hearing on Naturalization Application Under 8 U.S.C. § 1447(b).

The initial paragraph consists of plaintiff's description of the litigation, to which no responsive pleading is required.

**PARTIES**

1. Defendants admit the allegations in Paragraph One.
2. Defendants admit the allegations in Paragraph Two.

ANSWER  
C07-3439 JSW

- 1 3. Defendants admit the allegations in Paragraph Three.
- 2 4. Defendants admit the allegations in Paragraph Four.
- 3 5. Defendants admit the allegations in Paragraph Five.

#### **JURISDICTION**

5 6. Paragraph Six consists of plaintiff's allegation regarding jurisdiction, to which no  
6 responsive pleading is required; however, to the extent a responsive pleading is deemed necessary,  
7 defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Six.

#### **VENUE**

9 7. Paragraph Seven consists of plaintiff's allegations regarding venue, to which no responsive  
10 pleading is required.

#### **FACTS**

12 8. Defendants admit the allegations in Paragraph Eight.

13 9. Defendants admit that plaintiff made a personal inquiry regarding her naturalization  
14 application; however, Defendants are without sufficient information to either admit or deny  
15 plaintiff's eligibility.

16 10. Defendants admit that more than 120 days have passed since the initial interview;  
17 however, Defendants deny the remaining allegations in Paragraph Ten.

#### **PRAYER**

19 12. Defendants admit the allegations in Paragraph Twelve.

20 13. Paragraph Thirteen consists of plaintiff's prayer for relief, to which no admission or denial  
21 is required; to the extent a responsive pleading is deemed to be required, defendants deny the  
22 allegations in Paragraph Thirteen.

23 14. Paragraph Fourteen consists of plaintiff's prayer for relief, to which no admission or denial  
24 is required.

25 15. Paragraph Fifteen consists of plaintiff's prayer for relief, to which no admission or denial  
26 is required.

27 17. Paragraph Seventeen consists of plaintiff's prayer for relief, to which no admission or  
28 denial is required.

1 18. Paragraph Eighteen consists of plaintiff's prayer for relief, to which no admission or denial  
2 is required.

3 **FIRST AFFIRMATIVE DEFENSE**

4 The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(6) because plaintiff  
5 fails to state a claim upon relief may be granted.

6 **SECOND AFFIRMATIVE DEFENSE**

7 The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(1) for lack of subject  
8 matter jurisdiction.

9 WHEREFORE, defendants pray for relief as follows:

10 That judgment be entered for defendants and against plaintiff, dismissing plaintiff's Petition  
11 with prejudice; that plaintiff takes nothing; and that the Court grant such further relief as it deems  
12 just and proper under the circumstances.

13 Dated: September 28, 2007

Respectfully submitted,

14 SCOTT N. SCHOOLS  
15 United States Attorney

16 /s/  
17 EDWARD OLSEN  
18 Assistant United States Attorney  
19 Attorneys for Defendants

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